

R E M A R K S

Claims 1 to 16 as set forth in Appendix II of this paper are now pending in this case. Claims 4 to 6 and 8 to 10 have been amended and Claims 11 to 16 have been added as indicated.

Accordingly, applicants have deleted the preferred embodiments referenced in Claims 4 to 6 and 8 to 10 and have added new Claims 11 to 16 drawn to the deleted embodiments. No new matter has been added. In light of those changes it is respectfully requested that the objection to Claims 4 to 6 and 8 to 10 be withdrawn. Favorable action is solicited.

Additionally, applicants have revised page 7, indicated line 17, of the application as suggested by the Examiner. It is therefore respectfully requested that the objection to the specification be withdrawn. Favorable action is solicited.

The Examiner rejected Claims 1 to 10 under 35 U.S.C. §103(a) as being unpatentable in light of the teaching of *Kaibel et al.* (US 5,914,012) which relates to a dividing wall column which has a specific constructional arrangement which makes it unnecessary to attach the dividing walls in the column¹⁾. The respective arrangement is such that the dividing wall or dividing elements are integrated into, or attached loosely to, packings which are placed in the column²⁾, or is placed between random packings and and is loosely held in pace by U-shaped guide rails³⁾. In each case, the dividing wall is dimensioned such that a lateral gap is formed between the dividing wall and the column wall⁴⁾ which gap can be sealed off by attaching a sprung sealing lip⁵⁾.

Applicants' invention specifically aims at a constructional arrangement wherein the dividing wall is tightly fixed to the wall of the column. The respective goal is achieved in accordance with applicants' invention by employing a dividing wall which has a slightly overdimensional width and which is constructed at least partly of an elastic material. Due to the width requirement and the material requirement, the dividing wall of applicants' dividing wall column is fixed in the column by the dividing wall exercising an elastic recovery force on the interior wall of the column.

It is well established that obviousness within the meaning of Section 103(a) requires more than the mere fact that the prior art can be modified in some manner so as to arrive at a claimed invention. For obviousness under Section 103(a) it is also necessary that the prior art suggests the desirability of the specific modification which is required⁶⁾. The arrangements described by *Kaibel et al.* specifically avoid a tight fixture or attachment of the dividing wall within the column. Accordingly, the teaching of *Kaibel et al.* cannot be deemed to suggest the desirability of the changes and modifications which a person of ordinary skill in the art has to make in order to arrive at the

1) Cf. col. 2, indicated lines 22 to 24, of **US 5,914,012**.

2) Cf. col. 2, indicated lines 26 to 32 and 54 to 63, in conjunction with Figures 3 and 4, of **US 5,914,012**.

3) Cf. col. 3, indicated lines 21 to 30, in conjunction with Figure 6, of **US 5,914,012**.

4) Cf. col. 3, indicated lines 3 to 5, of **US 5,914,012**.

5) Cf. col. 3, indicated lines 5 to 8, of **US 5,914,012**.

6) Cf. In re Fritch, 972 F.2d 1260, 23 USPQ2d 1780, 1783-84 (CAFC 1992); In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (CAFC 1991); In re Gordon, 733 F.2d 900, 221 USPQ 1125 (CAFC 1984); see also, eg., Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 227 USPQ 543 (CAFC 1985).

constructional requirements which characterize applicants' dividing wall column. The teaching of *Kaibel et al.* is therefore not deemed to amount to a disclosure which renders applicants' dividing wall column *prima facie* obvious within the meaning of Section 103(a). Favorable reconsideration of the Examiner's position and withdrawal of the respective rejection is respectfully solicited. Applicants' new Claims 11 to 16 depend upon Claims 1 to 10, and the subject matter of those new claims is, therefore, also deemed to be patentable over the teaching of *Kaibel et al.*⁷⁾.

REQUEST FOR EXTENSION OF TIME:

It is respectfully requested that a *three* month extension of time be granted in this case. The respective \$1020.00 fee is paid by credit card (Form PTO-2038 enclosed).

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 14.1437. Please credit any excess fees to such deposit account.

Respectfully submitted,

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Encl.: THE SUBSTITUTE SECTION(S) OF THE SPECIFICATION (Appendix I)
THE LISTING OF CLAIMS (Appendix II)

DSK/BAS

7) If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is non-obvious (In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (CAFC 1988)).